

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7466

BILL NUMBER: SB 403

NOTE PREPARED: May 3, 2007

BILL AMENDED: Apr 9, 2007

SUBJECT: Freezing of Consumer Reports.

FIRST AUTHOR: Sen. Dillon

FIRST SPONSOR: Rep. Micon

BILL STATUS: Enrolled

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Consumer Report Freeze:* The bill provides that a consumer may prevent access to the consumer's consumer report by requesting that the consumer reporting agency place a security freeze on the consumer report.

Electronic Request: The bill requires a consumer reporting agency to develop and make available to consumers, not later than January 1, 2009, a secure electronic mail connection by which a consumer can request: (1) the placement of a security freeze; or (2) the same or a new personal identification number or password for use in releasing a report subject to a freeze to a third party, or in temporarily lifting a security freeze.

Release of Information: It prohibits a consumer reporting agency from releasing any information from a consumer report that is subject to a security freeze unless the consumer requests: (1) the release of the report to a specified third party; or (2) the temporary lifting of the freeze for a specified period. For a consumer report subject to a security freeze, the bill sets forth procedures for a consumer to request the: (1) release of the report to a third party; (2) temporary lifting of the freeze for specified period; or (3) removal of the freeze. The bill also requires a consumer reporting agency to develop and make available to consumers, not later than January 1, 2009, secure procedures to process, within 15 minutes of receiving a request, a telephonic or an electronic authorization from a consumer to: (1) release a consumer report subject to a security freeze; (2) temporarily lift a security freeze; or (3) remove a security freeze.

Exceptions: It provides that specified persons may receive information from a consumer report that is subject to a security freeze, including licensed insurers. It also provides that specified persons are not required to place a security freeze on a consumer's consumer report, including consumer reporting agencies that furnish

specialized credit reporting tools to energy utilities.

Notices: The bill requires a consumer reporting agency to provide a consumer written notice, in connection with certain required disclosures, that the consumer may place a security freeze on the consumer's consumer report.

Fees: The bill prohibits a consumer reporting agency from imposing a charge on a consumer for a request from the consumer to do any of the following: (1) Place a security freeze on the consumer's consumer report. (2) Release the consumer's consumer report to a specified person, if the report is subject to a security freeze. (3) Temporarily lifting a security freeze. (4) Remove a security freeze. (5) Issue a personal identification number or password for use by the consumer in releasing information from a frozen consumer report, lifting a security freeze, or removing a security freeze.

Third-Party Charges: The bill prohibits a consumer reporting agency from imposing a charge on a third party to whom a consumer's consumer report is released at the request of the consumer.

Violations: It provides a cause of action to a consumer aggrieved by a consumer reporting agency's violation of the provisions concerning security freezes. It allows the Attorney General to bring an action to recover a civil penalty from a person who knowingly or intentionally violates the provisions concerning security freezes.

Effective Date: September 1, 2007.

Explanation of State Expenditures: The Office of the Attorney General could incur costs to bring an action for a person knowingly or intentionally violating the provisions concerning consumer report security freezes.

Explanation of State Revenues: A consumer may bring a civil action against a consumer reporting agency if the consumer is injured by a violation of the provision. A person who knowingly or intentionally fails to comply with any requirement could be liable to the consumer for actual damages sustained by the consumer (not to exceed \$6,000) or \$500. The Attorney General's Office may also bring an action which could result in a civil penalty of up to \$2,500 for a violation affecting one consumer or not more than \$100,000 for violations affecting more than one consumer. A penalty for an action brought by the Attorney General would be paid to the state General Fund.

If additional consumer-initiated civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund when the case is filed in a court of record. Any additional revenue is likely to be minimal.

The Attorney General's Office does not pay court fees to bring an action. However, a defendant may be required to the pay court fees, if they do not prevail.

Explanation of Local Expenditures:

Explanation of Local Revenues: Circuit and superior courts could see an increased number of suits filed as a result of the bill. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. Any additional revenue is likely to

be minimal.

State Agencies Affected: Attorney General.

Local Agencies Affected: Circuit and superior courts.

Information Sources:

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